

REMARKS

By this amendment, claims 1-17 and 31-33 remain in the application.

In the Office Action, claims 1, 5, 6, 8-12, 15, 16, and 31-33 were rejected under 35 U.S.C. §102(b) as being anticipated by Love et. al (U.S. Patent No. 5,843,164); claims 2-4 and 13-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Love et al in view of Flomenbilt, et al (U.S. Patent No. 5,876,434); and claims 7 and 17 were rejected under §103(a) as being unpatentable over Love, et al in view of Wilson, et al (U.S. Patent No. 5,876,434). The patent numbers in the Office Action do not match the actual patents. In a phone call to the Examiner, the Examiner indicated that the Love Patent is Patent No. 5,163,955 and the Wilson patent is Patent No. 6,053,896.

The Love patent discloses a mating tissue heart valve which is assembled by the surgeon after removing from the kit. The Examiner points to col. 27, line 43 through col. 28, line 34, to state that after the balloon is deflated and removed, the device will inherently pull inwardly on the vessel wall as it moves toward its third expanded diameter. However, this section of the Love patent discusses a testing device for the valve and does not disclose in any fashion vessel engaging members or the device pulling the vessel walls inwardly as recited in claim 1. Withdrawal of the rejection is respectfully requested.

Note also, that the members 6a, 6b of Love identified by the Examiner are mushroomed capped ends as described in column 8. These members are tissue alignment members.

Note also that dependent claim 31 recites the vessel engaging members comprise penetrating tips to pierce the vessel wall to retain it for radially inward movement. No such structure is disclosed or suggested in Love, and the mushroom capped ends do not achieve such penetration.

Claim 12 recites that the vascular device is expandable to the second expanded position to engage the vessel walls and returnable substantially to the first position to bring the walls radially inwardly as the walls are pulled inwardly by the vascular device. There is no teaching or suggestion in Love of such device. Consequently, claim 12 patentably distinguishes over the prior art and the rejection should be withdrawn.

Note that dependent claim 32 recites vessel engaging members having penetrating tips to pierce the vessel wall to retain it for radially inward movement. As noted above with respect to claim 31, no such structure is disclosed or suggested in Love.

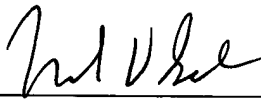
Claims 2-11 and 31 depend from claim 1 and claims 13-17, 32 and 33 depend from claim 12. Therefore, these claims are believed patentable for at least the same reasons that claims 1, 12 and 25 are believed patentable. Additionally, neither Flonenbilt nor Wilson satisfies the deficiencies of Love.

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment or credit any overpayment to Deposit Account 501567. Please consider this paper as a Petition for Extension of Time and charge any fee deficiencies to Deposit Account 501567.

Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Respectfully submitted,

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